

***United States Court of Appeals
for the Second Circuit***



EXHIBITS

77-4142

HIGUEL SIMES,

Petitioner,

v.

NATIONAL LABOR RELATIONS BOARD,

Respondent.

No. 77-4142

CERTIFIED LIST OF THE NATIONAL LABOR RELATIONS BOARD

The National Labor Relations Board, by its Executive Secretary duly authorized by Section 102.115, Rules and Regulations of the National Labor Relations Board - Series 8, hereby certifies that the list set forth below constitutes a full and accurate transcript of the entire record of a proceeding had before said Board and known upon its records as Case No. 2-CB-6386. Such transcript includes the pleadings and testimony and evidence upon which the Order of the Board was entered and includes also the findings and order of the Board.

VOLUME I - Exhibits introduced into evidence:

GENERAL COUNSEL'S EXHIBITS:

1-A thru 1-F

2 thru 11

RESPONDENT'S EXHIBITS:

1 thru 4

VOLUME II

CERTIFIED RECORD

Stenographic transcript of testimony taken before Administrative Law Judge Herbert Silberman on January 6 and 7, 1977.....

1 - 140 ^{2/}

VOLUME III - Pleadings

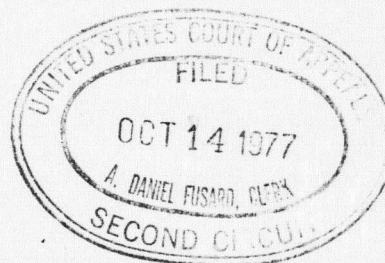
1. Copy of General Counsel's Motion to correct transcript, dated February 24, 1977.....
(Granted, see ALJ's Decision, page 2, footnote 1)

1

1/ Petitioner herein was Charging Party before the Board.

2/ Page numbers 64 thru 99 do not exist.

PLEASE RETURN TO
RECORDS ROOM



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- | | |
|---|--------|
| 2. Copy of Union's Motion to correct transcript, dated March 3, 1977....
(Granted, see ALJ's Decision, page 2, footnote 1) | 1 - 2 |
| 3. Copy of Administrative Law Judge's Decision issued on March 23, 1977. | 1 - 11 |
| 4. Copy of General Counsel's Statement of Exceptions to the Administrative Law Judge's Decision, received April 18, 1977. | 1 - 2 |
| 5. Copy of Decision and Order issued by the National Labor Relations Board on June 27, 1977..... | 1 - 2 |

IN TESTIMONY WHEREOF, the Executive Secretary of the National Labor Relations Board, being thereunto duly authorized as aforesaid, has hereunto set his hand and affixed the seal of the National Labor Relations Board in the city of Washington, District of Columbia, this 26th day of August, 1977.

John C. Truesdale

 John C. Truesdale
 Executive Secretary
 NATIONAL LABOR RELATIONS BOARD

(SEAL)

UNITED STATES OF AMERICA
DEPARTMENT OF LABOR
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

10

INSTRUCTIONS: File an original and 4 copies of this charge with NLRB regional director for the region in which the alleged unfair labor practice occurred or is occurring.
NEW YORK, NEW YORK

DO NOT WRITE IN THIS SPACE

Case No. 2-CR-14294
Date Filed 5/13/76

I. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Liberty Coach		b. Number of Workers Employed 260	
c. Address of Establishment (Street and number, city, State, and ZIP code) 1010 Monmouth Ave, Yonkers, N.Y.		d. Employer Representative to Contact Mr. Bernacchi	e. Phone No. 914 423-5203
f. Type of Establishment (Factory, mine, wholesaler, etc.) Bus company		g. Identify Principal Product or Service	

h. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and 3 (List subsections) of the National Labor Relations Act, and these unfair labor practices are unfair labor practices affecting commerce within the meaning of the Act.

2. Basis of the Charge (Be specific as to facts, names, addresses, plants involved, dates, places, etc.)

Since on or about May 11, 1976 and continuously thereafter, the above named employer, by its officers and agents, have discharged Miguel Simms and approximately 25 other employees because they engaged in protected concerted activity.

By the above and other acts, the above-named employer has interfered with, restrained, and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act.

3. Full Name of Party Filing Charge (If labor organization, give full name, including local name and number)

Miguel Simms

4a. Address (Street and number, city, State, and ZIP code)

2436 Webb Ave, Bronx, N.Y. 10468

4b. Telephone No.

365-5321

5. Full Name of National or International Labor Organization of Which It Is an Affiliate or Constituent Unit (To be filled in when charge is filed by a labor organization)

6. DECLARATION

I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.

By

(Signature of representative or person filing charge)

/s/ Miguel Simms

Date, if any

5/11/76

Address 2436 Webb Ave, Bronx, N.Y. 10468

365-5321

(Print name of person filing charge)

(Print)

COPIES OF THIS CHARGE CAN BE OBTAINED FROM THE NATIONAL LABOR RELATIONS BOARD, 1335 K STREET, N.W., WASHINGTON, D.C. 20004

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

CHARGE AGAINST LABOR ORGANIZATION OR ITS AGENTS

9

INSTRUCTIONS: File an original and 3 copies of this charge and an additional copy for each organization, each local and each individual named in item 1 with the NLRB regional director * in the region in which the alleged unfair labor practice occurred or is occurring.

Case No.

2-CB-6-253

Date Filed

JAN 6, 1976

1. LAB

ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT

a. Name

Local 100, Transport Workers Union

b. Union Representative to Contact

Casimiro Dillanilo

c. Phone No.

823-6000

d. Address (Street, city, State and ZIP code)

1990 Broadway, New York, N.Y. 10023

e. The above-named organization(s) or its agents has (have) engaged in and is (are) engaging in unfair labor practices within the meaning of section 8(b), subsection(s) 1 (A) of the National Labor Relations Act, and these unfair labor practices are unfair labor practices affecting commerce within the meaning of the Act.

2. Basis of the Charge (Be specific as to facts, names, addresses, plants involved, dates, places, etc.)

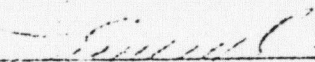
Since on or about January 29, 1976, and at all times thereafter, the above-named labor organization, by its agents, members, representatives, and officers, has failed to fairly represent the employees in its bargaining unit at Liberty Coaches, Inc., in that it has refused to process a petition seeking the recall of the shop officers in that bargaining unit, such petition having been filed pursuant to the above-named labor organization's Constitution and By-Laws. This failure to represent the employees in the unit has been for arbitrary and capricious reasons.

Further, the above-named labor organization has failed and refused, through its agents, members, representatives, and officers to process the grievances of the employees in the bargaining unit at Liberty Coaches, Inc. This refusal to process grievances has been for arbitrary and capricious reasons.

3. Name of Employer Liberty Coaches, Inc.		4. Phone No. (214) 423-3203
5. Location of Plant Involved (Street, city, State and ZIP code) 1010 Nepperham Avenue, Yonkers, N.Y.		6. Employer Representative to Contact
7. Type of Establishment (Factory, mine, wholesaler, etc.) Company	8. Identify Principal Product or Service	9. No. of Workers Employed 200
10. Full Name of Party Filing Charge Miguel Sians, An Individual		
11. Address of Party Filing Charge (Street, city, State and ZIP code) 2236 Webb Avenue, Bronx, N.Y. 01462		12. Telephone No. 355-5231

13. DECLARATION

I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.

By  an individual
 (Signature of representative or person making charge) (Title or office, if any)
 Address AV, N.Y., N.Y. 01462 355-5231 Jan 6 1971
 (Address) (Telephone number) (Date)

ALL FULLY FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

Do not write in this space

CCS
(See 6107)

INSTRUCTIONS: File an original and 4 copies of this charge with NLRB regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

DO NOT WRITE IN THIS SPACE
Case No. 2-CA-14030
Date Filed December 17, 1975

1. EMPLOYER AGENCIES FROM CHARGE IS DELETED

a. Name of Employer
Riverdale Transit Co.- Liberty Coaches

b. Number of Workers Employed

c. Address of Establishment (Street and number, city, State, and ZIP code)

115 Knowles Street, Yonkers, N.Y.

d. Employer Representative to Contact

Ben Gelman

e. Phone No.

914-881-1000

f. Type of Establishment (Factory, mine, wholesaler, etc.)

Bus Service

g. Identify Principal Product or Service

Service

b. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (2) and (3) of the National Labor Relations Act, and these unfair labor practices are unfair labor practices affecting commerce within the meaning of the Act.

2. Basis of the Charge (Be specific as to facts, names, addresses, plants involved, dates, places, etc.)

Since on or about December 8, 1975, the above-named Employer, by its officers, agents and representatives has assisted Local 100, Transit Workers Union, by requiring that its employees join the aforesaid union as a condition of employment notwithstanding the fact that a majority of said employees have not designated the aforesaid union as their collective bargaining agent.

By the above and other acts, the above-named employer has interfered with, restrained, and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act.

3. Full Name of Party Filing Charge (If labor organization, give full name, including local name and number)

Miguel Simms - Section Chairman

4a. Address (Street and number, city, State, and ZIP code)

2436 Webb Avenue, Bronx, N.Y. 10463

4b. Telephone No.

365-5231

5. Full Name of National or International Labor Organization of Which It Is an Affiliate or Constituent Unit (To be filled in when charge is filed by a labor organization)

6. DECLARATION

I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.

By

(Signature of representative or person filing charge)

/s/ Miguel Simms - Section Chairman

An Individual

(Title, if any)

Address 2436 Webb Ave., Bx., N.Y.

10463

365-5231

(Telephone number)

December 17, 1975

(Date)

IT IS UNLAWFUL FOR ANY PERSON TO MAKE A FALSE STATEMENT ON THIS CHARGE. IT CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1501)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST LABOR ORGANIZATION OR ITS AGENTS

6-17
(100-10030)

INSTRUCTIONS: File one original and 3 copies of this charge and an additional copy for each organization, each local and each individual named in item 1 with the NLRB regional director for the region in which the alleged unfair labor practices occurred or are occurring.

DO NOT WRITE IN THIS SPACE

Case No. 2-CR-6164
Date Filed December 17, 1975

1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT

a. Name
Local 103, Transit Workers Union

b. Union Representative in Contact
c. Phone No.
Charles Favling

d. Address (Street, city, state and ZIP code)
1980 Broadway, New York, N.Y. 10023

e. The above named organization(s) or its agent(s) (1) (2) and 4 and in (b) engaging in unfair labor practices within the meaning of section 8(b), subsection(s) (Last Subsection) of the National Labor Relations Act, and these unfair labor practices are unfair labor practices affecting commerce within the meaning of the Act.

2. Basis of the Charge (Be specific as to facts, names, addresses, plants involved, dates, places, etc.)

Since on or about December 8, 1975, the above-named union, by its officers, agents and representatives has restrained and coerced employees of Liberty Coaches by threatening to cause them discharge if they refused to join the above-named union, at a time when the union did not represent a majority of said employees.

By these and other acts, the above-named union has restrained and coerced and is restraining and coercing employees in the exercise of rights guaranteed under Section 7 of the Act.

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

CHARGE AGAINST LABOR ORGANIZATION OR ITS AGENTS

INSTRUCTIONS: File an original and 3 copies of this charge and an additional copy for each organization, each local and each individual named in item 1 with the NLRB regional director for the region in which the alleged unfair labor practice occurred or is occurring.

DO NOT WRITE IN THIS SPACE

Case No. 2-011-

Date Filed September 7, 1976

1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT

a. Name

Local 100, Transit Workers Union

b. Union Representative to Contact

Mr. McGarvey

c. Phone No.

873-6000

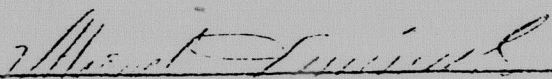
d. Address (Street, city, State and ZIP code)

1080 Broadway, New York, N.Y. 10023

e. The above-named organization(s) or its agents has ^(are) engaged in and is (are) engaging in unfair labor practices within the meaning of section 8(b), subsection(s) ^(List Subsections) of the National Labor Relations Act, and these unfair labor practices are unfair labor practices affecting commerce within the meaning of the Act.

2. Basis of the Charge (Be specific as to facts, names, addresses, plants involved, dates, places, etc.)

Since on or about June 21, 1976, the above-named labor organization, through its officers, agents and representatives has restrained and coerced Miguel Simms in the exercise of his rights guaranteed in Section 7 of the Act, by enrolling him from membership in Local 100, Transit Workers Union, because he had filed charges with the National Labor Relations Board.

3. Name of Employer Liberty Coaches, Inc.		4. Phone No.	
5. Location of Plant Involved (Street, city, State and ZIP code) 1010 Nepperham Avenue, Yonkers, N.Y. 10703		6. Employer Representative to Contact	
7. Type of Establishment (Factory, mine, wholesaler, etc.) Transportation Company	8. Identify Principal Product or Service Bus Service	9. No. of Workers Employed	
10. Full Name of Party Filing Charge Miguel Simms			
11. Address of Party Filing Charge (Street, city, State and ZIP code) 2436 Webb Avenue, Bronx, NY		12. Telephone No.	
13. DECLARATION			
I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.			
By <u></u> (Signature of representative or person making charge)		An Individual _____ (Title or office, if any)	
/s/ Miguel Simms		365-5231	
Address <u>2436 Webb Ave., Bronx, NY</u>		Sept. 7, 1976	
		(Telephone number)	
		(Date)	
WILLFULLY FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)			

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SECOND REGION

LOCAL 100, TRANSPORT WORKERS UNION
OF AMERICA, AFL-CIO
(LIBERTY COACHES, INC.)

Case No. 2-CB-6386

and

MIGUEL SIMMS

COMPLAINT AND NOTICE OF HEARING

It having been charged by Miguel Simms that Local 100, Transport Workers Union of America, AFL-CIO, herein called Local 100, has engaged in, and is engaging, in certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C., Sec. 151 et seq., herein called the Act, the General Counsel of the National Labor Relations Board, herein called the Board, on behalf of the Board, by the undersigned Regional Director for Region 2, pursuant to Section 10(b) of the Act and the Board's Rules and Regulations - Series 8, as amended, Section 102.15, hereby issues this Complaint and Notice of

Therein and alleges as follows:

Reading and allegor as follows:

1. The charge in this proceeding was filed by Miguel Simms on September 7, 1976, and served by registered mail upon Local 100 on or about September 8, 1976.

2.(a) Liberty Coaches, Inc., herein called Liberty, is, and has been at all times material herein, a corporation duly organized under, and existing by virtue of, the laws of the State of New York.

(b) At all times material herein, Liberty has maintained its principal office and place of business at 1010 Nepperham Avenue, in the City of Yonkers, and State of New York, where it is, and has been at all times material herein continuously engaged in providing bus transportation services to the public.

(c) During the past year, which period is representative of its annual operations generally, Liberty, in the course and conduct of its operations, derived gross revenues therefrom in excess of \$250,000.

'd) During the past year, which period is representative of its annual operations generally, Liberty in the course and conduct of its business operations purchased goods and materials valued in excess of \$50,000 of which goods and materials valued in excess of \$5,000 were transported and delivered directly to it from firms located outside the State of New York.

3. Liberty is and has been at all times material herein an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

4. Local 100 is and has been at all times material herein a labor organization within the meaning of Section 2(5) of the Act.

5. Charles Faulding and Kevin McGarvey are, and have been at all times material herein, the recording secretary and an organizer, respectively, of Local 100, acting on its behalf, and agents thereof.

6.(a) On or about December 18, 1975, Miguel Simms, an employee of Liberty, filed a charge with the Board, Region 2, against Local 100 in Case No. 2-CB-6107, alleging, inter alia, that Local 100 had violated Section 8(b)(1)(A) and (2) of the Act.

(L) On or about May 6, 1976, Miguel Simms, an employee of Liberty, filed a charge with the Board, Region 2, against Local 100 in Case No. 2-CB-6253 alleging, inter alia, that Local 100 had violated Section 8(b)(1)(A) of the Act.

7.(a) On or about June 21, 1976, Local 100, by its organizer and agent Kevin McGarvey, by letter, brought intraunion charges against Miguel Simms, claiming that Simms had violated various provisions of Local 100's Constitution and By-Laws because Miguel Simms had filed the unfair labor practice charges described above in paragraph 6.

(b) On or about July 1, 1976, a hearing was conducted under the auspices of Local 100's Executive Board on the aforesaid charges brought against Miguel Simms.

(c) On or about August 19, 1976, Local 100 expelled Miguel Simms from membership.

(d) Local 100 processed the intraunion charges and expelled

Miguel Simms from membership, as aforesaid because he filed the unfair labor practice charges described above in paragraph 6.

8. Local 100 engaged in the conduct described above in paragraph 7 with an object of penalizing Miguel Simms for filing charges with the Board and to discourage other employees from doing so.

9. By the acts described above in paragraphs 7 and 8, and by each of said acts, Local 100 restrained and coerced, and is restraining and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act, and thereby engaged in and is engaging in unfair labor practices affecting commerce within the meaning of Section 8(b)(1)(A) and Section 2(6) and (7) of the Act.

10. The acts of Local 100 described above in paragraphs 7, 8, and 9, occurring in connection with the operations of Liberty described above in paragraphs 2 and 3, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

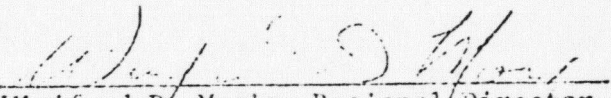
PLEASE TAKE NOTICE that on the 6th day of January 1977, at 10:00 a.m., at 26 Federal Plaza, 36th Floor, in the City and State of New York, a hearing will be conducted before a duly designated Administrative Law Judge of the National Labor Relations Board on the allegations set forth in the above Complaint, at which time and place you will have the right to appear in person, or otherwise and give testimony.

You are further notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, the Respondent shall file with the Regional Director for Region 2, acting in this matter as agent of the National Labor Relations Board, an original and four (4) copies of an answer to the said Complaint within ten (10) days from the service thereof, and that unless it does so all of the allegations in the Complaint shall be deemed to be admitted by it to be true and may be so found by the Board. Immediately upon the filing of its answer, Respondent shall serve a copy thereof on each of the other parties.

Form NLRB-4668, Statement of Standard Procedure in Formal Hearings

Held Before the National Labor Relations Board in Unfair Labor Practice
Cases is attached.

Dated at New York, New York this 22nd day of October 1976.


Winifred D. Morio, Regional Director
National Labor Relations Board
Region 2
26 Federal Plaza, 36th Floor
New York, New York 10007

ELIAS VAN DIER
President
TIMOTHY CROMIN
Financial Sec'y-Treas
CHARLES FAULDING
Recording Secretary
JAMES M. WHITE
Exec. Vice-President
PATRICK CONWAY
1st Vice-President
JOSEPH DONOGHUE
2nd Vice-President
JOHN LAWE
3rd Vice-President
JOHN RYAN
4th Vice-President
GILBERT RENSCHAK
5th Vice-President
CHARLES WECKWORTH
6th Vice-President

Transport Workers Union



LOCAL 100

Transport Workers Union
of America

Affiliated

With the American Federation
of Labor and the Congress
of Industrial Organizations

June 21, 1976

C C 4

Mr. Charles Faulding
Recording Secretary
Local 100 - TWU
1980 Broadway
New York, New York 10023

Dear Brother Faulding:

As the organizer assigned to the Westchester Division (private Lines) I request you bring the following charges against Brother Miguel Simms of Section 704 (W.C.)

2/26/76 - Violation of Article 19, Section 5c (Constitution)
National Labor Relations Board Case # 2 C.B. - 6107

6/10/76 - Violation of Article 19, Section 5c (Constitution)
Violation of Article 17b, (By-Laws)

Filed charge before N.L.R.B. against local of violating section 8, National Labor Relations Act.

Very truly yours,

Kevin McGarvey

Kevin McGarvey

KMcG:mg
opeiu-153

ELLIS VAN RIVER
President

TIMOTHY CRONIN
Financial Sec'y-Treas.

CHARLES FAULDING
Recording Secretary

RODNEY WATTS
Exec. Vice-President

PATRICK CONWAY
1st Vice-President

JOSEPH DONOGHUE
2nd Vice-President

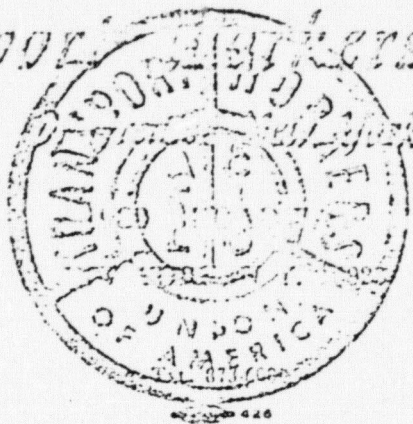
JOHN LAWE
3rd Vice-President

JOHN RYAN
4th Vice-President

GILBERT RENSCHAK
5th Vice-President

CHARLES WICKWORTH
6th Vice-President

Transport Workers Union



LOCAL 100
Transport Workers U
of America
Affiliated
With the American Fede
of Labor and the Co
of Industrial Organiza

June 9, 1976

Mr. Charles Faulding
Recording Secretary
Local 100 - TWU
1980 Broadway
New York, New York 10023

C C 2

Dear Brother Faulding:

As the elected section chairman of Section 704 (Liberty Coaches, Inc.) Westchester Division, I wish to bring the following charges based on violations of our constitution and by-laws against Brother Miguel Simms, member of Section 704.

1. Removing official union literature from union bulletin board. (Art. 19, Section 5, Constitution)
2. Accepting written and verbal grievances from fellow members without authority. (Art. 19A, by-laws)
3. Continuous opposition against the established grievance procedure. (Art. 19, Section 5 o, Const.)
4. Threatening bodily harm against me if I do not resign as elected Chairman of Section 704. (Art. 19, Section 5a, Const.)
5. Continuously harrassing and interrupting grievance hearings and union management discussions. (Art. 19, Section 5h)
6. Threatening job action without union authority. (Art 20A, by-laws, Art. 19, Section 5A, Const.)
7. Threatening bodily harm against members who disagree with his tactics. (Art. 19, Section 5A, Const.)

ELLIS VAN RIPER
President

TIMOTHY CRONIN
Financial Sec'y-Treas.

CHARLES FAULDING
Recording Secretary

ROOSEVELT WATTS
Exec. Vice-President

PATRICK CONWAY
1st Vice-President

JOSEPH DONOGHUE
2nd Vice-President

JOHN LAWE
3rd Vice-President

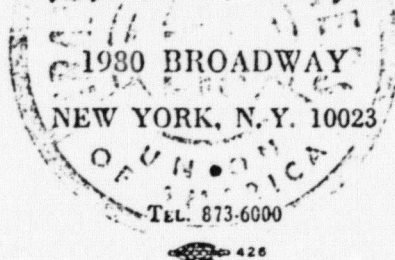
JOHN RYAN
4th Vice-President

GILBERT RENSCHAK
5th Vice-President

CHARLES WECKWORTH
6th Vice-President

Transport Workers Union

Of Greater New York



LOCAL 100

Transport Workers Union
of America

Affiliated
With the American Federation
of Labor and the Congress
of Industrial Organizations

June 18, 1976

Mr. Miguel Simms
2436 Webb Avenue
Bronx, New York 10468

Dear Brother Simms:

A sub-committee appointed by the Local 100 Executive Board

will meet in this office, 1980 Broadway, NYC, on Thursday, July 1, 1976 at 5:00 p.m. to hear the charges brought against you by Chairman D'Alessio and Recording Secretary Robert Martin of Section 704, TWU, Local 100.

They are charging you with violating the following rules and regulations:

Article 19A, By-laws

Article 19, Section 5o in the Constitution
Section 5m of the Constitution

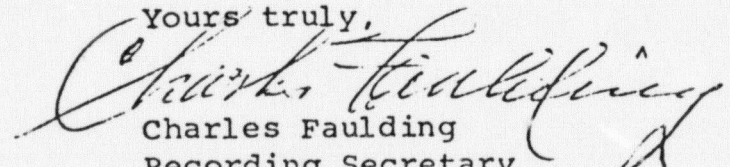
Article 19, Section 5h

Article 20a of the by-laws

Article 19, Section 5a of the Constitution

You are requested to be present at this hearing.

Yours truly,

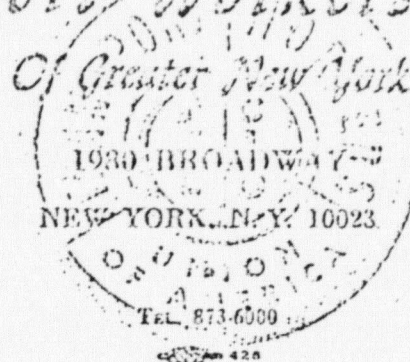

Charles Faulding
Recording Secretary
Local 100 - TWU

CF:mg
encs.
opeiu-153

The Union of All Passenger Transportation Workers in Greater New York

THOMAS VAN RIVER
 President
 EUGENE CRONIN
 General Secretary
 CHARLES FAULRING
 Recording Secretary
 ROOSEVELT WATTS
 Exec. Vice-President
 PATRICK CONWAY
 1st Vice-President
 JOSEPH DONOHUE
 2nd Vice-President
 JOHN LAWE
 3rd Vice-President
 JOHN RYAN
 4th Vice-President
 GILBERT RONSCHAY
 5th Vice-President
 CHARLES WACKWORTH
 6th Vice-President

Transport Workers Union



August 19, 1975

LOCAL 100

Transport Workers Union
of America

Affiliated

With the American Federation
of Labor and the Congress
of Industrial Organizations

Mr. Miguel Simms
 2435 Webb Avenue
 Bronx, New York 10468

Brother Simms:

You and Brother M. Stern did not see fit to remain
 for your entire committee hearing on July 2, 1975, that had
 been set by the Transport Workers Union, Local 100 Executive
 Board, to hear the charges brought against you by your Chairman
 and other officers of your section 704.

The committee continued to convene and made a recess

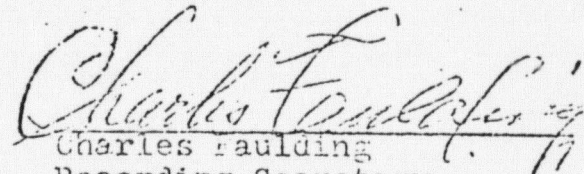
G C 6

The committee continued to convene and made a recommendation to the Executive Board at the Board's July 7, 1976 meeting. Their recommendation was that you, Mr. Simms, be barred from holding office in this union forever. Also you would be placed on probation for five (5) years.

However, this did not pass the Executive Board. A motion from the floor was made to revoke the membership of Miguel Simms. This was passed by the entire Executive Board assembled, unanimously.

As of July 7, 1976 you are no longer a member of Local 100, Transport Workers Union. We are enclosing your check for \$15.76 for eight (8) weeks dues. Please return your membership card to this office.

Yours truly,


Charles Faulding
Recording Secretary
Local 100 T.W.U.

CF/nm
opeiu-153
Enc.

The Union of All Passenger Transportation Workers in Greater New York

E C 34

EXECUTIVE BOARD MEETING MINUTES
July 7, 1976

The meeting was called to order at 1:45 p.m. by President Ellis P. Van Riper. Attendance was taken by Recording Secretary Charles Faulding. There were three Executive Board members on vacation, Selena Tompkins was sick and Arthur Harley was absent.

The first order of business was to hear the charges brought against two organizers, John Henry and Audrey Tutt, by RRC Frank Duron. Brother Duron was invited to appear on his own behalf but did not see fit to do so (copy of letter attached). The charges were read to the entire Board by the Recording Secretary Charles Faulding, and were unanimously rejected by the Board and a vote of confidence was given to these two employees for the capable way that they had represented their membership.

Brother Frank McCann reported as the Chairman of the Committee set to hear the Simms case. The Simms Committee report was amended from the floor and approved unanimously as indicated on the attached report.

President Van Riper brought to the floor the proposal of dues increase. He read a draft of a brochure to be put out on the road for the general membership. The ballots will be mailed out on the 12th of July, must be returned by Midnight July 21 and picked up and counted on the 22nd of July. If approved, dues will be increased effective September 1, 1976. The question of whether or not the dues will be increased again at the convention was asked. The only answer that could be given at this time was that it is not likely but not definitely so.

Charles Faulding spoke to the members urging them to encourage the rank and file to vote for this increase of \$1.03 per week which would bring the dues to \$3 a week. He said that it was necessary to keep the Union in a liquid condition and able to stave off the problems that management put before it.

Secretary-Treasurer Timothy Cronin told the Board that we had lost over two-thousand members in the last two years due to attrition. With this loss of dues paying members and the increase in the cost of doing business the increase was more than necessary.

Joe Kaufmann spoke in favor of the dues increase from the floor. Mike Heaney said that the dues increase was only the price of one cheap drink in a local bar.

(hearing on charges against Br. W. Simms continued)

The remaining charges which were brought against Br Simms by TWU Trynizer, Kevin McCarthy were heard by the committee and in addition two copies from the National Labor Board were presented as evidence. The Chairman then closed the Hearing at 7:00pm.

The Committee feels Brother Simms is guilty of all the charges submitted and make the following recommendations.

- (1) Brother Simms be barred from ever holding Union Office.
- (2) Brother Simms be placed on Five (5) Year Probation.

Committee:

Frank McCann
Frank McCann Chairman

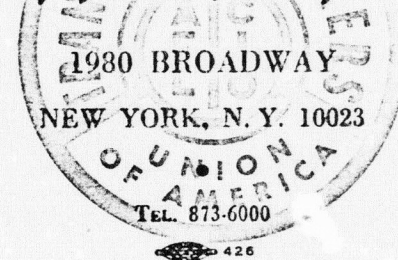
H. Behrens

F. Barrely
F. Barrely

S. VAN RIPER
President
TIMOTHY CRONIN
Financial Sec'y-Treas.
CHARLES FAULDING
Recording Secretary
ROOSEVELT WATTS
Exec. Vice-President
PATRICK CONWAY
1st Vice-President
JOSEPH DONOGHUE
2nd Vice-President
JOHN LAWE
3rd Vice-President
JOHN RYAN
4th Vice-President
GILBERT RENSCHAK
5th Vice-President
CHARLES WECKWORTH
6th Vice-President

Transport Workers Union

Of Greater New York



August 19, 1976

LOCAL 100
Transport Workers Union
of America
Affiliated
With the American Federation
of Labor and the Congress
of Industrial Organizations

Mr. Miguel Simms
2436 Webb Avenue
Bronx, New York 10468

Dear Brother Simms:

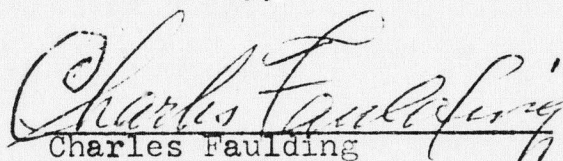
You and Brother M. Stern did not see fit to remain for your entire committee hearing on July 2, 1976, that had been set by the Transport Workers Union, Local 100 Executive Board, to hear the charges brought against you by your Chairman and other officers of your section 704.

The committee continued to convene and made a recommendation to the Executive Board at the Board's July 7, 1976 meeting. Their recommendation was that you, Mr. Simms, be barred from holding office in this union forever. Also you would be placed on probation for five (5) years.

However, this did not pass the Executive Board. A motion from the floor was made to revoke the membership of Miguel Simms. This was passed by the entire Executive Board assented, unanimously.

As of July 7, 1976 you are no longer a member of Local 100, Transport Workers Union. We are enclosing your check for \$15.76 for eight (8) weeks dues. Please return your membership card to this office.

Yours truly,


Charles Faulding
Recording Secretary
Local 100 T.W.U.

CF/nm
opeiu-153
Enc.

325 Riverdale Avenue
Yonkers, N.Y. 10705
July 2, 1976

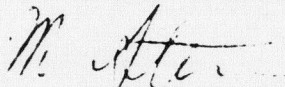
Local Executive Board,
Local 100 Transport Workers Union of America
1980 Broadway,
New York, N. Y., 10023

Dear sirs and brothers,

On Thursday, July 1st a hearing was held in which Miquel Simms was charged with violating numerous sections of the bylaws and the constitution.

Prior to the hearing, Mr. Simms received a notice, a copy of which is enclosed. It did not state the exact nature of Mr. Simms' offenses, nor any period of time as specified in Article XIX, sec. 1 of the constitution. Therefore, as a member of the local who is representing Mr. Simms, I ask that the executive board review these charges and consider them improper.

Thank you in advance,


Mike Stern

July 20, 1976

To whom it may concern;

I, Jose Batista, have been an employee for Liberty Coaches for six years, and was a member of the rules committee of the section from January 1, 1976 to about the middle of March of the same year. In february of 1976 I was supervising the drivers' picking of runs for the new schedule. Also working with me was another rules committee member, Rocco Girard, and the section chairman, Cosimo "Chuck" D'alessio. Some time that afternoon Mr. James Murphy, a vice president of the company, came in and stated to us; "If it was up to me, I would place these men wherever I felt like it." ("these men" meaning all the Riverdale Transit men that refused to pick in protest to the way the runs were set up.) He also said that he would give them the worst runs he could. "Chuck" just smiled, and later said to us, concerning the Riverdale men, and Miguel Simms, their former chairman, in particular; ("Once a dictator, always a dictator."

These statements by the company in conjunction with their actions, and a lot of their past statements, indicated to me that they had intentions of either firing all the Riverdale men, or forcing them to quit. The actions of the union committee, which also includes vice chairman, Frank Lutomski, and recording secretary, Robert Martin, indicated to me also that they were in full agreement with the company, and also would like to see the Riverdale men gone one way or another. Because of all these things, I found that I was unable to continue working with that committee, and so I resigned from the rules committee.

All of the above statement is true, so help me God.

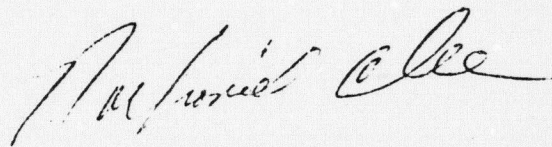
PHILIP H. DAILEADER
Notary Public, State of New York
No. 52-59000550
Qualified in Suffolk County
Commission Expires March 30, 1978
STATE OF NEW YORK
COUNTY OF SUFFOLK
I, PHILIP H. DAILEADER, DO HEREBY CERTIFY THAT
JOSE BATISTA, 23 DAY OF JULY, 1976
1976

Jose Batista
J. Batista

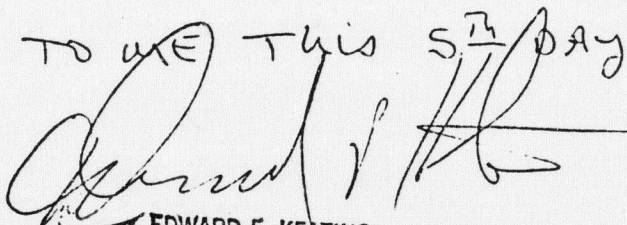
To Whom it may concern:

We the undersigned drivers of Liberty Coaches Inc., were present at our garage, located at 1010 Neperham Ave., Yonkers, New York, On May 7, 1976, When Mr. Simms parked His car with His Son and came to pick up his check. It was around 10 or 10:30 A.M., We followed Him outside the office. At that moment, The Chairman was coming toward the office from the washing rack. He was stopped by Mr. Bostick and Mr. David Bonafonte. We went toward this group to hear the story. Mr. Boatick was concerned about Mr. David so Mr. Simms Spoke about Mr. Elio Hernandez who was present. Also, Mr. D'Alessio started to blame the drivers and an argument arose between the Chairman, Bostick and Simms. At that time the Chairman's Brother-in-law arrived and accused Simms of always arguing with his brother-in-law and why didn't he do it with him instead. Mr. Simms answered, because you are not the Chairman otherwise I would. Mr. Sweet got mad and wanted to fight. Mr Simms told Him they could go outside, off the premises but the others calmed them down and that was it. Then 20 minutes later, The Chairman started to scream "I resign, I resign" He passed by Mr. Simms who was by His car and started screaming. Mr. Simms put His hand on the Chairman's shoulder and told Him to cool it. Don't resign there are two (2) men waiting for their hearings and He left. We never saw Simms interrupt a hearing. We state that all of this statement is true.

STATE OF NEW YORK.
COUNTY OF WESTCHESTER.



SWORN TO ME THIS 5TH DAY OF JANUARY 1977



EDWARD F. KEATING
Notary Public, State of New York
No. 60-7194060
Qualified in Westchester County
Term Expires March 30, 1978

STATE OF NEW YORK }
COUNTY OF *Queen* } s.s.:

I, Leopoldo Oramas , being duly sworn, deposes and says:

1. I reside at 25-50 30th Road, Astoria, Queens
2. I am now employed at Liberty Coaches Inc.
3. In about the middle of March 1976, I overheard the Chairman of the section committee of Liberty Coaches , named, Mr. C.D'Alessio tell someone that he would get even with Mr. Samms for getting the seniority rights for the Riverdale employees . I can not remember who he told this to I only remember the conversation.
4. At sevral union meetings that I attended there was always prejudice toward the former Riverdale employees by Mr. McGarvey , the orgainazer, and the section committee. Pertaining to any motion put on the floor or any suggestion that a Riverdale Employee may make, even though it was permitted by the By-Laws and the Constitution of the Local 100.

Leopoldo Oramas

Leopoldo Oramas

Sworn to before me

on the *20* day of *Dec* 197*6*.

Frank G. Ginter

NOTARIAL PUBLIC
STATE OF NEW YORK
My Comm. Expires 12/31/77
Notary Public for the State of New York
Commission No. 12345

NOTARIAL PUBLIC
STATE OF NEW YORK
My Comm. Expires 12/31/77
Notary Public for the State of New York
Commission No. 12345

325 Riverdale Ave.,
Yonkers, N.Y., 10705

12, June, 1976

Matthew Guinan,
International President, Transport Workers Union of America,
A.F.L. - C.I.O.

Dear sir:-

The last thing that I expected to be doing would be to write to the President of the Transport Workers Union, but I feel it necessary to call your attention to an intolerable situation.

My place of employment is Liberty Coaches, Inc., 1010 Nepperhan Ave., Yonkers, N.Y., 10703, and I am also a member of Local 100, Div. 2E, and I assume that I am in good standing. For a long time prior to that I worked for Riverdale Transit Corp. (Local 225), also of Yonkers. (Actually only the garage was in Yonkers; Riverdale ran an express bus service entirely within N.Y.C.)

Anyway, Riverdale Transit merged with - or was sold - to Liberty. The Local 225-Riverdale contract was terminated, and I, along with the entire shop, was wholly incorporated into the Local 100 contract with Liberty Coach.

There were, of course, problems, seniority and so forth, which were eventually settled. The problem of representation at first appeared to be settled, but that didn't last too long. It became immediately apparent to me that the section committee at Liberty was incapable of handling it's affairs, and worse, generally didn't care. There were, and still are, numerous contract violations by management. I realize that these things happen in any section, but here we have a committee that works with management in committing violations.

On January 29th, a petition was circulated among the membership to

have a special election to recall the committee in accordance with the TWU constitution. Over half the membership of the section signed it, and it was submitted to the local. We were denied an election on the grounds that practically all of the names on the petition were former Riverdale drivers.

Another petition was circulated on March 30, for the same thing. Well over half the membership signed, including a considerable number of Liberty drivers. This petition was again turned down by the local, no reason given.

I will spare you the rhetoric of union obligations, and so forth, but I will say that right now, and particularly in this section, the membership and its union cannot afford to be fighting each other. It would be very tragic if this thing gets blown all out of proportion. Things are happening so fast in this company that now the situation is critical.

This past May twenty-eight drivers were fired without cause. (The company alleges a work stoppage.) It is being handled in a long and continuing series of arbitration hearings. This didn't have to happen; the only reason it did was because the section committee was totally inept.

I ask, sir, your intervention in behalf of us in the matter of a recall election. Most of us would be glad to assist the union in any way, and especially to maintain good faith as we have in the past. All we ask is not to be denied due process.

Respectfully yours,

A handwritten signature in cursive script, appearing to read "Mike Stern", written in dark ink.

Mike Stern

325 Riverdale Ave.
Yonkers, N.Y. 10705
(914) 963-0996.

SUBPOENA

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To Bill Munoz

@ Liberty Lines Inc. 1010 Nepperhan Av. Yonkers, N.Y.

10703

Request therefor having been duly made by Miguel Simms

whose address is 2436 Webb Av. Bronx New York
(Street) (City) (State)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR before an

Administrative Law Judge of the National Labor Relations Board,

at 26 Federal Plaza, Room 3614

in the City of New York

on the 6th day of January, 19 77, at 10 o'clock a. m.

of that day, to testify in the Matter of and any other adjourned date to

testify in the Matter of Local 100, Transport Workers Union of America

Case No. 2-CD-6386

A- 487047



In testimony whereof, the seal of the National Labor Relations Board is affixed hereto, and the undersigned, a member of said National Labor Relations Board, has hereunto set his hand and authorized the issuance hereof.

Issued at New York, New York

this 4th day of January, 19 77

Betty Southard Murphy

RETURN OF SERVICE

I hereby certify that being a person over 18 years of age, I duly served a copy of the within subpoena

(Indicate by check ☒ method used.)

☒ in person

☐ by registered mail

☐ by telegraph

☐ by leaving copy at principal office or place of business, to wit:

on the person named herein on _____

1/4/77

(Month, day, and year)

[Signature]

(Name of person making service)

(Official title, if any)

I certify that the person named herein was

in attendance as a witness at _____

746 Taylor Av Bronx NY

on _____

1/4/77

(Month, day or days, and year)

Michael Ste

(Name of person certifying)

(Official title)

SUBPOENA

7

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To Frank Boylan

@ Liberty Lines Inc. 1010 Heppner Av. Yonkers, N.Y.
10703

Request therefor having been duly made by Miguel Simms

whose address is 2436 Webb Av. Bronx New York
(Street) (City) (State)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR before an
Administrative Law Judge of the National Labor Relations Board,
at 26 Federal Plaza, Room 3614

in the City of New York

on the 6th day of January, 19 77, at 10 o'clock a. m.

of that day, to testify in the Matter of xxxxxx and any other adjourned date to

testify in the Matter of Local 100, Transport Workers Union of America

Case No. 2-CB-6336

A- 487048



In testimony whereof, the seal of the National Labor Relations Board is affixed hereto, and the undersigned, a member of said National Labor Relations Board, has hereunto set his hand and authorized the issuance hereof.

Issued at New York, New York

this 4th day of January, 19 77

Betty Southard Murphy

RETURN OF SERVICE

I hereby certify that being a person over 18 years of age, I duly served a copy of the within subpoena

☒ in person

☐ by registered mail

☐ by telegraph

☐ by leaving copy at principal office or place of business, to wit:

(Indicate by check ✓ method used.)

on the person named herein on

Jan 4th 1977

(Month, day, and year)

[Signature]
(Name of person making service)

(Official title, if any)

I certify that the person named herein was in attendance as a witness at Liberty Lines

1010 Nepperchan Av Yonkers NY

on

1/4 1977
(Month, day or days, and year)

[Signature]
(Name of person certifying)

(Official title)

SUBPOENA

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To Nathaniel Clee
@ Liberty Lines Inc. 1010 Hepperton Ave. Yonkers, N.Y.
10703

Request therefor having been duly made by Miguel Simms

whose address is 2436 Webb Av. Bronx, New York
(Street) (City) (State)
YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR before an
Administrative Law Judge of the National Labor Relations Board,
at 25 Federal Plaza, Room 3614
in the City of New York
on the 6th day of January, 19 77, at 10 o'clock a. m.
of that day, to testify in the Matter of and any other adjourned date to
testify in the Matter of Local 100, Transport Workers Union of America
Cran No. 2-CB-6336

A- 487046



In testimony whereof, the seal of the National Labor Relations Board is affixed hereto, and the undersigned, a member of said National Labor Relations Board, has hereunto set his hand and authorized the issuance hereof.

Issued at New York, New York

this 6th day of January, 19 77

Betty Southard Murphy

RETURN OF SERVICE

I hereby certify that being a person over 18 years of age, I duly served a copy of the within subpoena

(Indicate by check ✓ method used.)

☒ in person
☐ by registered mail
☐ by telegraph
☐ by leaving copy at principal office or place of business, to wit:

on the person named herein on _____

1/5/77

(Month, day, and year)

Michael J. [Signature]

(Name of person making service)

(Official title, if any)

I certify that the person named herein was in attendance as a witness at Liberty Lines 1010 Nepperhan Av Yonkers N.Y.

on _____

1/5/77

(Month, day or days, and year)

Michael J. [Signature]

(Name of person certifying)

(Official title)

SUBPOENA DUCES TECUM

9

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To *Chuck D'Alessio*, Section Chairman of *Liberty Coaches, Inc.*
Liberty Lines, Inc. 1010 Heppner Ave. Yonkers, New York
Request therefor having been duly made by
whose address is *Miguel Simms*

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE an
Administrative Law Judge of the National Labor Relations Board,
at 26 Federal Plaza, Room 3614
in the City of New York
on the 6th day of January, 1977, at 10 o'clock A. M.
of that day, to testify in the Matter of ~~xx~~ and any other adjourned dated to testify in
the Matter of Local 100 Transport Workers Union of America, Case No. 2-CB-5386

And you are hereby required to bring with you and produce at said time and place the following books, records, correspondence, and documents:

Look containing minutes of hearings held between section Committee, employer and employees.

Documents concerning Mr. Ronald Salmon

B- 159164



In testimony whereof, the seal of the National Labor Relations Board is affixed hereto, and the undersigned, a member of said National Labor Relations Board, has hereunto set his hand and authorized the issuance hereof.

Issued at New York, New York
this 4th day of January

19 77

Betty Southard Murphy

RETURN OF SERVICE

I hereby certify that, being a person over 18 years of age, I duly served a copy of the within subpoena

(Indicate by check ☐ method used.)

☒ in person

☐ by registered mail

☐ by telegraph

☐ by leaving copy at principal office or place of business, to wit:

on the person named herein on _____

Jan 5 1977

(Month, day, and year)

Michael Alt

(Name of person making service)

(Official title, if any)

I certify that the person named herein was

in attendance as a witness at Liberty Lines
1010 Nepperhan Av Yonkers NY

on _____

1/5/77

(Month, day or days, and year)

Michael Alt

(Name of person certifying)

(Official title)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To *Joseph Donoghue, Vice-president, Local 100*
Transport Workers Union of America 1980 Bway.

Request therefor having been duly made by *Miguel Simms*

whose address is *2436 Webb Av. Bronx, New York*

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE
of the National Labor Relations Board,

Administrative Law Judge
at 26 Federal Plaza, Room 3614
in the City of New York

on the 6th day of January, 1977, at 10 o'clock a.m.
of that day, to testify in the Matter of *and any other adjourned dates to testify in*
the Matter of Local 100 Transport Workers Union of America, Case No. 2-CB-6336

And you are hereby required to bring with you and produce at said time and place the
following books, records, correspondence, and documents:

Minutes of hearing of Miguel Simms, held on
July 1, 1976 before executive board committee at 1980 Bway.
New York, N.Y.

B- 159163

In testimony whereof, the seal of the National Labor
Relations Board is affixed hereto, and the undersigned, a
member of said National Labor Relations Board, has hereunto
set his hand and authorized the issuance hereof.



Issued at *New York, New York*
this 6th day of *January*, 1977

Betty Southard Murphy

RETURN OF SERVICE

I hereby certify that, being a person over 18 years of age, I duly served a copy of the within subpoena

(Indicate by check ☒ method used.)

☐	in person
☐	by registered mail
☐	by telegraph
☒	by leaving copy at principal office or place of business,

to wit:
left at union office with
Donoghue's assistant Joseph
Kaufmann

on the person named herein on

1/5/77

(Month, day, and year)

Michael Allen

(Name of person making service)

(Official title, if any)

I certify that the person named herein was

in attendance as a witness at local 100

headquarters at 1930 Bway NYC NY.

on 1/5/77

(Month, day or days, and year)

Michael Allen

(Name of person certifying)

(Official title)